

# CALFRESH (CF) PROGRAM

## REQUEST FOR POLICY/REGULATION INTERPRETATION

**INSTRUCTIONS:** Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO: <input checked="" type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:	5. DATE OF REQUEST: 2/19/2013 6. COUNTY/ORGANIZATION: Trinity County HHS 7. SUBJECT: Convicted Drug Felon Question
2. REQUESTOR NAME:	8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) <b>NOTE: All requests must have a regulation cite(s) and/or a reference(s).</b> W&IC 18901.3, 7 CFR 273.11(m), 21 U.S.C. § 862a. Also refer to recent CF24 submitted by Siskiyou on 1/29/13 which was responded to by CDSS on 2/8/13.
3. PHONE NO.:	
4. REGULATION CITE(S): MPP §63-300.5(e)(11)(E), 63-402.229	

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

Scenario: Customer applies for CalFresh benefits and reports that they were convicted of a drug related felony in Kansas. Per the conviction documents, the customer was convicted of a felony drug charge for possessing drug paraphernalia (in this case it was a scale) and a misdemeanor for possession of marijuana. The intake worker has the customer complete the FS 26. The customer completes the form and states that a drug treatment program is a non-issue as this was NOT a condition of her probation in regards to the conviction. She also states that she HAS NOT ceased the use of controlled substance because she now has a prescription for medical marijuana. The intake worker denies the individual from the CalFresh application because the customer has not ceased the use of a controlled substance and therefore is determined to be a disqualified drug felon for the CalFresh program. Is this a correct action under MPP §63-300.5(e)(11)(E)?

10. REQUESTOR'S PROPOSED ANSWER:

With enactment of W&IC 18901.3, California exercised its option under 21 U.S.C. § 862a to exempt certain drug felons from federal prohibitions against receiving CalFresh benefits. Because of this, the federal restrictions (7 CFR 273.11(m), 21 U.S.C. § 862a) no longer apply for those individuals who meet California's requirements under MPP §63-300.5(e)(11). Since W&IC 18901.3 specifies "Other evidence that the illegal [my emphasis on "illegal"] use of controlled substances has ceased..." and use of medical marijuana is now legal in California.

In this particular case I would allow the individual to participate in the program by applying the above W&IC code. I am submitting this interpretation request only because the drug felony conviction was for possession of paraphernalia and according to the customer, the scale was needed for the marijuana which was being consumed for medical purposes.

11. STATE POLICY RESPONSE (CFPB USE ONLY):

The State concurs with the requestors proposed answer to the convicted drug felon scenario above. Welfare and Institution Code (W&IC) code 18901.3(d)-states as a condition of eligibility to receive CalFresh benefits an applicant convicted of a felony drug offense, shall provide proof of one of the following subsequent to the most recent drug-related conviction: 1) Completion of a government recognized drug treatment program, 2) Participation in a government-recognized drug treatment program; 3) Enrollment in a government-recognized drug treatment program; 4) Placement on a waiting list for a government-recognized treatment program; or 5) "Other evidence that the illegal use of a controlled substance has ceased.

The applicant in the above scenario has met the condition of number five of the W&IC, by possessing a prescription for use of a controlled substance and may therefore participate in the CalFresh program.

### FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ: 02/27/2013
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